

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**APRIL S. WALDEN,**

Plaintiff,

v.

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON,**

Defendant.

Case No. 3:21-cv-1344-JR

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge Jolie A. Russo issued Findings and Recommendation in this case on September 9, 2021. Judge Russo recommended that this Court dismiss Plaintiff's complaint with prejudice. No party has filed objections either to the merits of Judge Russo's Findings and Recommendation or to Judge Russo's recommendation that the Court dismiss Plaintiff's complaint with prejudice and without an opportunity to replead.

Under the Federal Magistrates Act (Act), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Russo’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Russo’s Findings and Recommendation, ECF 4. The Court DISMISSES Plaintiff’s complaint with prejudice. ECF 2.

**IT IS SO ORDERED.**

DATED this 12th day of October, 2021.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge